

SESSION OF 2003

REVISED
CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2037

As Agreed to May 6, 2003

Brief *

The bill would enact the Wireless Enhanced 911 (e-911) Act that would create a funding mechanism for improvements required to establish e-911 service. Such improvements would be financed from a combination of grants and a tax imposed by local units of government. Grant funds would be generated from a 25¢ per month fee imposed on each wireless service account in the state. Grants would be available to counties with populations under 75,000 and to cities in those counties. In addition, a 25¢ e-911 tax would be imposed on all wireless user accounts. In 2007 the fee would be abolished and wireless and wireline 911 taxes would be equalized.

The bill would provide for audits and reports to the Governor and the Legislature regarding the use of revenue generated under the bill's authority. The bill also would give cities, counties, and public service answering points (PSAPs) that serve them until July 1, 2005 to request that wireless service carriers begin implementation of e-911 services.

e-911 Service Defined

- ! "Wireless enhanced 911 service" would be defined as a service that enables a wireless carrier to provide number and location identification of calls made to a PSAP that is capable of utilizing e-911 service.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. The conference committee summary report may be accessed on the Internet at <http://www.kslegislature.org/klrd>

e-911 Tax

- ! The bill would impose, effective July 1, 2003, an e-911 tax of 25¢ per month per wireless subscriber account in Kansas. (A "subscriber account" would be defined by the bill to be the 10-digit access number assigned to a wireless customer regardless of whether more than one number is aggregated for the purpose of billing a service user.) Proceeds of the tax could be used to pay for costs of wireless and wireline 911 services. Revenue from the wireless tax could not be used for new or expanded buildings or similar facilities or to construct other capital improvements not specifically authorized by the Act.
- ! The tax would be remitted to the League of Kansas Municipalities and the Kansas Association of Counties which would be designated the "local collection point administrator" (LCPA) by the bill. The LCPA would be required to distribute tax revenue to PSAPs based on information provided by carriers regarding the primary place of use of the wireless service. The LCPA would be authorized to retain, as an administrative fee, a maximum of 2 percent of total tax revenue collected.
- ! If a PSAP serving a local unit of government that has imposed the e-911 tax has not made a valid request to an emergency telephone service provider to implement e-911 service by July 1, 2005, tax revenue generated within the local unit would be deposited in the Grant Fund. A waiver of up to one year could be granted by the Advisory Board for just cause if necessary equipment is not available or to meet the two-year requirement.
- ! July 1, 2007 the e-911 tax would increase to a maximum of 50¢ per month per wireless subscriber account in Kansas. At that time, the wireline 911 tax and the e-911 tax would be equalized.
- ! Existing law that permits imposition of a wireline 911 tax would be amended to make wireless service subject only to the e-911 tax and fee.

e-911 Fee

- ! The bill would impose a 25¢ per month fee (e-911 fee) on each wireless subscriber account in Kansas. The fee would be collected from the wireless user by the carrier and remitted to the Secretary of Administration for deposit in the Grant Fund. Collection of the fee would begin July 1, 2003. The fee would sunset July 1, 2007.

Tax and Fee Collection

- ! Wireless service users would be liable for the tax and the fee imposed by the bill until the tax or fee is paid to the wireless carrier. Wireless carriers would begin collecting the fee and tax imposed under the bill July 1, 2003. The tax would be added to and could be separately enumerated on users' bills. Both the fee and any tax imposed under authority of the bill would be collected at the same time as, and along with, charges for wireless service in accordance with wireless carriers' regular billing practices. Carriers would remit monthly amounts collected from customers.
- ! Revenue generated from the fee would be remitted to the Secretary of Administration.
- ! Revenue generated from the tax would be remitted to the LCPA.
- ! The bill provides for collection of the e-911 tax and fee on prepaid wireless telephone service.

Grant Fund

- ! The Wireless Enhanced 911 Grant Fund (Fund) would be created as the repository for revenue generated by the e-911 fee and other moneys available for the purposes of the fund including proceeds of bonds issued to finance e-911 implementation. Moneys in the Fund could only be used for:
 - " Grants to counties with populations of less than 75,000, or cities located in such counties. Those grants could be used to finance:

- Necessary and reasonable costs incurred by PSAPs to implement e-911 service;
 - Purchase or upgrade of equipment used solely to process data elements of e-911 service;
 - Costs of maintenance and license fees for e-911 equipment and training of personnel to operate that equipment; and
 - Grant funds specifically could not be used to build new or expanded facilities or to construct other capital improvements not explicitly authorized by the Act.
- " Administrative expenses limited to a maximum of 5 percent of revenue. Those administrative costs may include costs incurred by the advisory board and the cost of audits.
- ! The grant fund would be administered by the Secretary of Administration who would be required to:
- " Provide eligible municipalities with technical advice and assistance regarding e-911 projects or grant applications;
 - " Establish grant application procedures and requirements; and
 - " Make an annual report to the Governor and the Legislature describing how the goals and objectives of the previous year have been met and reporting progress toward implementation of federal phase II e-911 requirements.
- ! The Secretary would be authorized to:
- " Adopt rules and regulations to implement the Act;
 - " Select projects to be funded from the Grant Fund; and
 - " Enter into agreements with grantees for payment of e-911 project costs.

Grant Administration

- ! The Secretary would be authorized to enter into agreements with eligible municipalities regarding grants from the fund. Agreements would address the purposes for the grants, implementa-

tion schedules, and grant amounts. Grantees would be required to repay the amount of the grant if implementation is not completed in accordance with the agreement.

- ! Grantees served by PSAPs that have not requested wireless carriers to implement e-911 service by July 1, 2005, would be required to repay to the Secretary all grant funds received. A waiver of up to one year could be granted by the Advisory Board for just cause or if necessary equipment is not available to meet the two-year requirement. Any amounts paid back would be deposited in the Grant Fund. Any grantee who forfeits grant funds due to failure to make a valid request would be prohibited from receiving another grant until the grantee has submitted evidence to the Secretary that a valid request has been made.

Advisory Board

- ! A nine-member Wireless Enhanced 911 Advisory Board would be appointed by the Governor. Members of the Advisory Board would have to be familiar with development and implementation of e-911 service. The Board would be composed of one representative each of:
 - " the Association of Counties;
 - " the League of Kansas Municipalities;
 - " local law enforcement;
 - " local fire/emergency medical services;
 - " PSAPs in counties with populations of less than 15,000; and
 - " PSAPs in counties with populations of 15,000 or more.

- ! Of the Advisory Board members representing the groups enumerated above, two each would be from counties:
 - " with a population of more than 75,000;
 - " with a population of 15,000 to 75,000; and
 - " with a population of less than 15,000.

- ! The remaining three positions on the Board would be occupied by persons representing:
 - " the wireless carriers industry;
 - " the Kansas Highway Patrol; and
 - " local exchange service providers.

- ! The Secretary and the Advisory Board would be required to prepare an annual plan identifying intended uses of the Grant Fund. The plan would be subject to public comment and review. The plan would have to include, but not be limited to:
 - " A project priority list ("project" would be defined to be development and acquisition of necessary improvements to facilitate establishment of e-911 services);
 - " A description of short and long-term goals and objectives for deployment of e-911;
 - " Descriptions of projects to be financed, terms of grants, and information about grantees; and
 - " Criteria and method for making grants from the fund.

Limitation of Liability

- ! Liability of the Secretary, LCPA, governing bodies of cities and counties, public agencies, wireless carriers and their employees and agents would be limited for damages resulting from installing, maintaining, or providing e-911 service under certain circumstances.

Audits

- ! Legislative Post Audit would be required to conduct audits in 2005 and in 2007 relating to payments, disbursements, and use of funds authorized by the Act. Those audits would have to be conducted in accordance with the Post Audit Act and a scope statement authorized and approved by the Post Audit Committee. As outlined in the bill, those audits would include, but not be limited to:
 - " the appropriate uses of funds;
 - " sufficiency of funds collected;
 - " status of e-911 implementation; and
 - " the need and level of continued funding.

Information provided to Post Audit in connection with the audits would be treated as proprietary and withheld from the public at the request of the submitting party.

- ! The Grant Fund and the LCPA would be subject to an annual audit in accordance with the Post Audit Act. The annual audit report would be provided to the Governor and the Legislature along with the annual report of the of e-911 implementation.
- ! The Secretary shall in 2004 and the Secretary or the LCPA may thereafter require an annual financial audit of any wireless carrier's books and records regarding the collection and remittance of fees and taxes under the Act. Any such audit would be conducted at the expense of the Secretary or the LCPA. Information provided by carriers to the Secretary under the Act would be treated as proprietary records and withheld from the public upon request of the submitting party.

Recovery of Carriers' Costs

The bill would prohibit interpretation of the Act as limiting the ability of wireless carriers to recover, directly from their customers, costs associated with collecting and administering the tax and fee, designing, developing, deploying, and maintaining e-911.

Accurate Coverage

The bill would require all PSAPs and wireless carriers to make a good faith effort to ensure that e-911 calls placed near jurisdictional borders are forwarded to the appropriate PSAP.

Notice of Waiver Request

The bill would require PSAPs to notify the Secretary when they are notified of a wireless carrier's application to the federal Communication Commission for a waiver of deadlines for implementation of e-911.

Conforming Amendments

Definitions in current law governing wireline 911 would be amended to conform with the new Act.

Background

A fiscal note reflecting the Conference Committee agreement was not available when this Brief was prepared. However, the Conference Committee utilized estimates of revenue prepared for earlier versions of the bill. Those estimates were that \$0.25 per month per wireless account for the 1.3 million wireless phones in Kansas would generate \$3.9 million per year.